

1 AN ACT in relation to interrogations.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 2. The Illinois Criminal Justice Information Act
5 is amended by adding Section 7.5 as follows:

6 (20 ILCS 3930/7.5 new)

7 Sec. 7.5. Grants for video and audio recording
8 equipment.

9 (a) The Authority, from appropriations made to it for
10 that purpose, shall make grants to local law enforcement
11 agencies for the purpose of purchasing equipment for video
12 and audio recording of interrogations.

13 (b) The Authority shall promulgate rules to implement
14 this Section.

15 Section 5. The Illinois Police Training Act is amended by
16 adding Section 10.2 as follows:

17 (50 ILCS 705/10.2 new)

18 Sec. 10.2. Training of police officers to conduct
19 videotape interrogations. From appropriations made to it for
20 that purpose, the Board shall initiate, administer, and
21 conduct training programs for permanent police officers,
22 part-time police officers, and recruits on the methods and
23 technical aspects of conducting video and audio recordings of
24 interrogations.

25 Section 10. The Juvenile Court Act of 1987 is amended by
26 adding Section 5-401.5 as follows:

27 (705 ILCS 405/5-401.5 new)

1 Sec. 5-401.5. When statements by minor may be used.

2 (a) In this Section, a "written statement of a minor"
3 means a statement signed by the minor or a statement made by
4 the minor in his or her own handwriting or, if the minor is
5 unable to write, a statement bearing his or her mark, when
6 the mark has been witnessed by a person other than a peace
7 officer.

8 In this Section, "custodial interrogation" means any
9 interrogation during which the person being interrogated is
10 not free to leave and a question is asked that is designed to
11 elicit an incriminating response.

12 In this Section, "place of detention" means a facility
13 under the control of a law enforcement agency.

14 (b) An oral, written, or sign language statement of a
15 minor who, at the time of the commission of the offense was
16 under the age of 17 years, made as a result of a custodial
17 interrogation conducted at a police station or other place of
18 detention on or after the effective date of this Section
19 shall be presumed to be inadmissible as evidence against the
20 minor in any criminal proceeding, whether in adult or
21 juvenile court, for an act that if committed by an adult
22 would be a criminal offense unless:

23 (1) an electronic video and audio recording is made
24 of the custodial interrogation;

25 (2) prior to the custodial interrogation but during
26 the recording, the minor is given the following warnings:

27 (A) that the minor has the right to remain
28 silent and not make any statement at all, and that
29 any statement he or she makes may be used against
30 him or her at his or her trial;

31 (B) that any statement he or she makes may be
32 used as evidence against him or her in court;

33 (C) that he or she has the right to have an
34 attorney present to advise him or her prior to and

1 during any questioning; and

2 (D) that if he or she is unable to employ an
3 attorney, he or she has the right to have an
4 attorney appointed to advise him or her prior to and
5 during any questioning;

6 (3) prior to the statement but during the recording,
7 the minor waives any rights described in paragraph (2);

8 (4) the recording is accurate and has not been
9 altered;

10 (5) all voices on the recording are identifiable;
11 and

12 (6) not later than the 20th day before the date of
13 any criminal proceeding at which the statement is to be
14 admitted as evidence against the minor, the attorney
15 representing the minor is permitted to review a true,
16 complete, and accurate copy of all recordings of the
17 minor made under this Section.

18 (c) A written statement made by a juvenile under 17
19 years of age as a result of a custodial interrogation at a
20 police station or other place of detention is presumed to be
21 inadmissible as evidence against him or her in any criminal
22 proceeding, in juvenile or adult court, for any criminal
23 offense unless it is shown on the face of the statement that:

24 (1) the minor, prior to making the statement,
25 received from the person to whom the statement is made a
26 warning that:

27 (A) he or she has the right to remain silent
28 and not make any statement at all and that any
29 statement he or she makes may be used against him or
30 her in any proceeding under this Act;

31 (B) any statement he or she makes may be used
32 as evidence against him or her in court;

33 (C) he or she has the right to have an
34 attorney present to advise him or her prior to and

1 during any questioning; and

2 (D) if he or she is unable to employ an
3 attorney, he or she has the right to have an
4 attorney appointed to advise the minor prior to and
5 during any questioning; and

6 (2) the minor, prior to and during the making of
7 the statement, waived the rights set out in the warning
8 prescribed by item (1) of this subsection (c).

9 (d) Every electronic video and audio recording of any
10 statement made by a minor during a custodial interrogation at
11 a police station or other place of detention must be
12 preserved until such time as the minor's adjudication for any
13 offense relating to the statement is final and all direct and
14 habeas corpus appeals are exhausted, or the prosecution of
15 such offenses is barred by law.

16 (e) If the minor is a deaf person, the minor's statements
17 under subsection (b) of this Section are presumed to be
18 inadmissible against the minor unless the warnings in
19 subsection (b) are interpreted to the deaf person by an
20 interpreter who is qualified and certified by the Registry of
21 Interpreters for the Deaf.

22 (f) If the minor can prove, by a preponderance of the
23 evidence, that he or she was subjected to a custodial
24 interrogation at a police station or other place of detention
25 prior to the custodial interrogation at a police station or
26 other place of detention and after the effective date of this
27 Section that was the subject of the electronic video and
28 audio recording, and if that prior custodial interrogation at
29 a police station or other place of detention relating to the
30 same offense was not recorded as required by this Section,
31 then any statements made by the minor during or following
32 that non-recorded custodial interrogation at a police station
33 or other place of detention, even if otherwise in compliance
34 with this Section, are presumed to be inadmissible in any

1 criminal proceeding against the minor except for the purposes
2 of impeachment.

3 (g) Nothing in this Section precludes the admission (i)
4 of a statement made by the minor in open court in any
5 criminal proceeding, before a grand jury, or at a preliminary
6 hearing, (ii) of a statement that is res gestae of the arrest
7 or of the offense, (iii) of a statement made during a
8 custodial interrogation that was not recorded as required by
9 this Section because video or audio recording, or both, was
10 not feasible, (iv) of a voluntary statement, whether or not
11 the result of a custodial interrogation, that has a bearing
12 on the credibility of the accused as a witness, (v) of a
13 statement made under exigent circumstances, (vi) of a
14 spontaneous statement that is not made in response to a
15 question, (vii) of a statement made after questioning that is
16 routinely asked during the processing of the arrest of the
17 suspect, (viii) of a statement made during a custodial
18 interrogation by a suspect who agrees, prior to making the
19 statement, to respond to the interrogator's questions only if
20 either a video or audio recording, or both, is not made of
21 the statement, provided that an electronic video and audio
22 recording is made of the statement of agreeing to respond to
23 the interrogator's question, only if a recording is not made
24 of the statement, (ix) of a statement made during a custodial
25 interrogation that is conducted out-of-state, (x) of a
26 statement made by a suspect who is being interrogated
27 simultaneously with other suspects concerning the same
28 offense, but only to the extent that no electric recording
29 equipment (video or audio) is available because it is being
30 utilized for the interrogations of the other suspects for the
31 same offense, or (xi) of any other statement that may be
32 admissible under law. The State shall bear the burden of
33 proving, by a preponderance of the evidence, that one of the
34 exceptions described in this subsection (g) is applicable.

1 Nothing in this Section precludes the admission of a
2 statement, otherwise inadmissible under this Section, that is
3 used only for impeachment and not as substantive evidence.

4 (h) The presumption of inadmissibility of a statement
5 made by a suspect at a custodial interrogation may be
6 overcome by clear and convincing evidence that the statement
7 was voluntarily given and is reliable.

8 (i) In addition to the requirements of subsection (b),
9 no oral, written, or sign language statement of a minor who
10 at the time of the commission of the offense was under 13
11 years of age made as a result of a custodial interrogation
12 conducted at a police station or other place of detention on
13 or after the effective date of this Section shall be
14 admissible as evidence against the minor in any proceeding
15 for an act that if committed by an adult would be a criminal
16 offense unless he or she is represented by counsel during the
17 entire custodial interrogation.

18 Section 15. The Criminal Code of 1961 is amended by
19 changing Section 14-3 as follows:

20 (720 ILCS 5/14-3) (from Ch. 38, par. 14-3)

21 Sec. 14-3. Exemptions. The following activities shall
22 be exempt from the provisions of this Article:

23 (a) Listening to radio, wireless and television
24 communications of any sort where the same are publicly made;

25 (b) Hearing conversation when heard by employees of any
26 common carrier by wire incidental to the normal course of
27 their employment in the operation, maintenance or repair of
28 the equipment of such common carrier by wire so long as no
29 information obtained thereby is used or divulged by the
30 hearer;

31 (c) Any broadcast by radio, television or otherwise
32 whether it be a broadcast or recorded for the purpose of

1 later broadcasts of any function where the public is in
2 attendance and the conversations are overheard incidental to
3 the main purpose for which such broadcasts are then being
4 made;

5 (d) Recording or listening with the aid of any device to
6 any emergency communication made in the normal course of
7 operations by any federal, state or local law enforcement
8 agency or institutions dealing in emergency services,
9 including, but not limited to, hospitals, clinics, ambulance
10 services, fire fighting agencies, any public utility,
11 emergency repair facility, civilian defense establishment or
12 military installation;

13 (e) Recording the proceedings of any meeting required to
14 be open by the Open Meetings Act, as amended;

15 (f) Recording or listening with the aid of any device to
16 incoming telephone calls of phone lines publicly listed or
17 advertised as consumer "hotlines" by manufacturers or
18 retailers of food and drug products. Such recordings must be
19 destroyed, erased or turned over to local law enforcement
20 authorities within 24 hours from the time of such recording
21 and shall not be otherwise disseminated. Failure on the part
22 of the individual or business operating any such recording or
23 listening device to comply with the requirements of this
24 subsection shall eliminate any civil or criminal immunity
25 conferred upon that individual or business by the operation
26 of this Section;

27 (g) With prior notification to the State's Attorney of
28 the county in which it is to occur, recording or listening
29 with the aid of any device to any conversation where a law
30 enforcement officer, or any person acting at the direction of
31 law enforcement, is a party to the conversation and has
32 consented to it being intercepted or recorded under
33 circumstances where the use of the device is necessary for
34 the protection of the law enforcement officer or any person

1 acting at the direction of law enforcement, in the course of
2 an investigation of a forcible felony, a felony violation of
3 the Illinois Controlled Substances Act, a felony violation of
4 the Cannabis Control Act, or any "streetgang related" or
5 "gang-related" felony as those terms are defined in the
6 Illinois Streetgang Terrorism Omnibus Prevention Act. Any
7 recording or evidence derived as the result of this exemption
8 shall be inadmissible in any proceeding, criminal, civil or
9 administrative, except (i) where a party to the conversation
10 suffers great bodily injury or is killed during such
11 conversation, or (ii) when used as direct impeachment of a
12 witness concerning matters contained in the interception or
13 recording. The Director of the Department of State Police
14 shall issue regulations as are necessary concerning the use
15 of devices, retention of tape recordings, and reports
16 regarding their use;

17 (h) Recordings made simultaneously with a video
18 recording of an oral conversation between a peace officer,
19 who has identified his or her office, and a person stopped
20 for an investigation of an offense under the Illinois Vehicle
21 Code;

22 (i) Recording of a conversation made by or at the
23 request of a person, not a law enforcement officer or agent
24 of a law enforcement officer, who is a party to the
25 conversation, under reasonable suspicion that another party
26 to the conversation is committing, is about to commit, or has
27 committed a criminal offense against the person or a member
28 of his or her immediate household, and there is reason to
29 believe that evidence of the criminal offense may be obtained
30 by the recording; and

31 (j) The use of a telephone monitoring device by either
32 (1) a corporation or other business entity engaged in
33 marketing or opinion research or (2) a corporation or other
34 business entity engaged in telephone solicitation, as defined

1 in this subsection, to record or listen to oral telephone
2 solicitation conversations or marketing or opinion research
3 conversations by an employee of the corporation or other
4 business entity when:

5 (i) the monitoring is used for the purpose of
6 service quality control of marketing or opinion research
7 or telephone solicitation, the education or training of
8 employees or contractors engaged in marketing or opinion
9 research or telephone solicitation, or internal research
10 related to marketing or opinion research or telephone
11 solicitation; and

12 (ii) the monitoring is used with the consent of at
13 least one person who is an active party to the marketing
14 or opinion research conversation or telephone
15 solicitation conversation being monitored.

16 No communication or conversation or any part, portion, or
17 aspect of the communication or conversation made, acquired,
18 or obtained, directly or indirectly, under this exemption
19 (j), may be, directly or indirectly, furnished to any law
20 enforcement officer, agency, or official for any purpose or
21 used in any inquiry or investigation, or used, directly or
22 indirectly, in any administrative, judicial, or other
23 proceeding, or divulged to any third party.

24 When recording or listening authorized by this subsection
25 (j) on telephone lines used for marketing or opinion research
26 or telephone solicitation purposes results in recording or
27 listening to a conversation that does not relate to marketing
28 or opinion research or telephone solicitation; the person
29 recording or listening shall, immediately upon determining
30 that the conversation does not relate to marketing or opinion
31 research or telephone solicitation, terminate the recording
32 or listening and destroy any such recording as soon as is
33 practicable.

34 Business entities that use a telephone monitoring or

1 telephone recording system pursuant to this exemption (j)
2 shall provide current and prospective employees with notice
3 that the monitoring or recordings may occur during the course
4 of their employment. The notice shall include prominent
5 signage notification within the workplace.

6 Business entities that use a telephone monitoring or
7 telephone recording system pursuant to this exemption (j)
8 shall provide their employees or agents with access to
9 personal-only telephone lines which may be pay telephones,
10 that are not subject to telephone monitoring or telephone
11 recording.

12 For the purposes of this subsection (j), "telephone
13 solicitation" means a communication through the use of a
14 telephone by live operators:

- 15 (i) soliciting the sale of goods or services;
- 16 (ii) receiving orders for the sale of goods or
17 services;
- 18 (iii) assisting in the use of goods or services; or
- 19 (iv) engaging in the solicitation, administration,
20 or collection of bank or retail credit accounts.

21 For the purposes of this subsection (j), "marketing or
22 opinion research" means a marketing or opinion research
23 interview conducted by a live telephone interviewer engaged
24 by a corporation or other business entity whose principal
25 business is the design, conduct, and analysis of polls and
26 surveys measuring the opinions, attitudes, and responses of
27 respondents toward products and services, or social or
28 political issues, or both.

29 (k) Electronic recordings, including but not limited to,
30 motion picture, videotape, or other visual and audio
31 recording, made of a custodial interrogation of an individual
32 at a police station by a law enforcement officer under
33 Section 5-401.5 of the Juvenile Court Act of 1987 or Section
34 103-2.1 of the Code of Criminal Procedure of 1963.

1 (Source: P.A. 91-357, eff. 7-29-99.)

2 Section 20. The Code of Criminal Procedure of 1963 is
3 amended by adding Section 103-2.1 as follows:

4 (725 ILCS 5/103-2.1 new)

5 Sec. 103-2.1. When statements by accused may be used.

6 (a) In this Section, a "written statement of an accused"
7 means a statement signed by the accused or a statement made
8 by the accused in his or her own handwriting or, if the
9 accused is unable to write, a statement bearing his or her
10 mark, when the mark has been witnessed by a person other than
11 a peace officer.

12 In this Section, "custodial interrogation" means any
13 interrogation during which the person being interrogated is
14 not free to leave and a question is asked that is designed to
15 elicit an incriminating response.

16 In this Section, "place of detention" means a facility
17 under the control of a law enforcement agency.

18 (b) An oral, written, or sign language statement of an
19 accused made as a result of a custodial interrogation at a
20 police station or other place of detention shall be presumed
21 to be inadmissible as evidence against the accused in any
22 criminal proceeding, unless:

23 (1) an electronic video and audio recording is made
24 of the custodial interrogation;

25 (2) prior to the custodial interrogation but during
26 the recording the accused is given the following
27 warnings:

28 (A) that the accused has the right to remain
29 silent and not make any statement at all, and that
30 any statement the accused makes may be used against
31 the accused at his or her trial;

32 (B) that any statement the accused makes may be

1 used as evidence against the accused in court;

2 (C) that the accused has the right to have an
3 attorney present to advise him or her prior to and
4 during any questioning; and

5 (D) that if the accused is unable to employ an
6 attorney, he or she has the right to have an
7 attorney appointed to advise him or her prior to and
8 during any questioning;

9 (3) prior to the statement but during the recording,
10 the accused waives the rights described in paragraph (2);

11 (4) the recording is accurate and has not been
12 altered;

13 (5) all voices on the recording are identifiable;
14 and

15 (6) not later than the 20th day before the date of
16 any proceeding at which the statement is to be offered as
17 evidence against the defendant, the attorney representing
18 the defendant is permitted to review a true, complete,
19 and accurate copy of all recordings of the defendant made
20 under this Section.

21 (c) In addition to the requirements of subsection (b) of
22 this Section, a written statement made by an accused as a
23 result of a custodial interrogation at a police station or
24 other place of detention is presumed to be inadmissible as
25 evidence against him or her in any criminal proceeding unless
26 it is shown on the face of the statement that:

27 (1) the accused, prior to making the statement,
28 received from the person to whom the statement is made a
29 warning that:

30 (A) he or she has the right to remain silent
31 and not make any statement at all and that any
32 statement he or she makes may be used against him or
33 her at his or her trial;

34 (B) any statement he or she makes may be used

1 as evidence against him or her in court;

2 (C) He or she has the right to have an
3 attorney present to advise him or her prior to and
4 during any questioning; and

5 (D) if he or she is unable to employ an
6 attorney, he or she has the right to have an
7 attorney appointed to advise him or her prior to and
8 during any questioning; and

9 (2) the accused, prior to and during the making of
10 the statement, waived the rights set out in the warning
11 prescribed by item (1) of this subsection (c).

12 (d) Every electronic video and audio recording of any
13 statement made by an accused during a custodial interrogation
14 at a police station or other place of detention must be
15 preserved until such time as the defendant's conviction for
16 any offense relating to the statement is final and all direct
17 and habeas corpus appeals are exhausted, or the prosecution
18 of such offenses is barred by law.

19 (e) If the accused is a deaf person, the accused's
20 statements under subsection (b) of this Section are presumed
21 to be inadmissible against the accused unless the warnings in
22 subsection (b) are interpreted to the deaf person by an
23 interpreter who is qualified and certified by the Registry of
24 Interpreters for the Deaf.

25 (f) If the defendant can prove, by a preponderance of the
26 evidence, that he or she was subjected to a custodial
27 interrogation at a police station or other place of detention
28 prior to the custodial interrogation at a police station or
29 other place of detention and after the effective date of this
30 Section that was the subject of the electronic video and
31 audio recording, and if that prior custodial interrogation at
32 a police station or other place of detention relating to the
33 same offense was not recorded as required by this Section,
34 then any statements made by the defendant during or following

1 that non-recorded custodial interrogation at a police station
2 or other place of detention, even if otherwise in compliance
3 with this Section, are presumed to be inadmissible in any
4 criminal proceeding against the defendant except for the
5 purposes of impeachment.

6 (g) Nothing in this Section precludes the admission (i)
7 of a statement made by the accused in open court at his or
8 her trial, before a grand jury, or at a preliminary hearing,
9 (ii) of a statement that is res gestae of the arrest or of
10 the offense, (iii) of a statement made during a custodial
11 interrogation that was not recorded as required by this
12 Section, because video or audio recording, or both, was not
13 feasible, (iv) of a voluntary statement, whether or not the
14 result of a custodial interrogation, that has a bearing on
15 the credibility of the accused as a witness, (v) of a
16 statement made under exigent circumstances, (vi) of a
17 spontaneous statement that is not made in response to a
18 question, (vii) of a statement made after questioning that is
19 routinely asked during the processing of the arrest of the
20 suspect, (viii) of a statement made during a custodial
21 interrogation by a suspect who agrees, prior to making the
22 statement, to respond to the interrogator's questions only if
23 either a video or an audio recording, or both, is not made of
24 the statement, provided that an electronic video and audio
25 recording is made of the statement of agreeing to respond to
26 the interrogator's question, only if a recording is not made
27 of the statement, (ix) of a statement made during a custodial
28 interrogation that is conducted out-of-state, (x) of a
29 statement made by a suspect who is being interrogated
30 simultaneously with other suspects concerning the same
31 offense, but only to the extent that no electronic recording
32 equipment (video or audio) is available because it is being
33 utilized for the interrogations of the other suspects for the
34 same offense, or (xi) of any other statement that may be

1 admissible under law. The State shall bear the burden of
2 proving, by a preponderance of the evidence, that one of the
3 exceptions described in this subsection (g) is applicable.
4 Nothing in this Section precludes the admission of a
5 statement, otherwise inadmissible under this Section, that is
6 used only for impeachment and not as substantive evidence.

7 (h) The presumption of inadmissibility of a statement
8 made by a suspect at a custodial interrogation may be
9 overcome by clear and convincing evidence that the statement
10 was voluntarily given and is reliable.

11 Section 95. The State Mandates Act is amended by adding
12 Section 8.27 as follows:

13 (30 ILCS 805/8.27 new)

14 Sec. 8.27. Exempt mandate. Notwithstanding Sections 6
15 and 8 of this Act, no reimbursement by the State is required
16 for the implementation of any mandate created by this
17 amendatory Act of the 92nd General Assembly.

18 Section 99. Effective date. Sections 2, 5, 15, and 95
19 of this Act and this Section 99 take effect upon becoming
20 law. Sections 10 and 20 of this Act take effect 2 years
21 after becoming law.